

March 17, 2023

Via ECF

Honorable Jennifer H. Rearden
Daniel Patrick Moynihan
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007-1312

Re: Joan Rosario v. Burnsed Trucking Inc et al.
Docket No: 1:21-cv-07347 JHR

Dear Judge Rearden,

Please allow this letter to update the Court on the status of the case, pursuant to the Notice of reassignment.

1. Counsel:

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Plaintiff, Joan Rosario 225
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2. This is a claim for damages for personal injuries sustained by the plaintiff who was employed as a forklift or Hi-Lo operator at the New Fulton Fish Market. The Defendant, Burnsed Trucking Inc., is an entity engaged in the business of trucking and transporting goods.

The claim arises out of an accident which occurred on 8/25/2020, at the New Fulton Fish Market Hunts Point, 800 Food Center Drive, Bronx, New York. The area of the fish market

involved in a warehouse type structure with a series of loading bays. Trucks delivering goods to the market would back their vehicles up against exterior of the building, so that the trailer portion of the truck was accessible through the loading bay. At that point an employee of the New Fulton Fish Market would enter the trailer portion of the vehicle from inside of the market and unload the items being delivered.

The Plaintiff's allegations are that on the day of the accident, the Defendant's vehicle back up to the loading bay, and as the plaintiff entered the vehicle, the driver of the Defendant's vehicle caused it to pull away from the loading bay, and as a result the Plaintiff and his fork lift fell approximately 5 feet to the pavement outside of the building.

The Defendant's position is that it's not negligent. The Defendant's driver was following the instructions of New Fulton Fish Market at the time of the incident by moving its vehicle. Further, Plaintiff entered the Defendant's vehicle before he was told to do so and before it was safe to do so.

The Plaintiff is claiming injuries to his Neck, Back and Knee, underwent surgery to his neck and knee and has not returned to work. The Defendant disputes all injuries alleged.

3. This action was originally filed in the Supreme Court of the State of New York, Bronx County and was removed to this Court by the Defendant. The Plaintiff is a resident of the State of New York. Defendant BURNSED TRUCKING, INC. is a resident of the State of Florida in that BURNSED TRUCKING, INC. was incorporated in Florida and has a principal place of business at 170 Boyd Road, Fort Pierce, Florida 34945.

4. The last scheduling order set forth the following deadlines. Plaintiff expert disclosure by 2/23/23; Defendant's expert exchange by 3/17/23; Expert Depositions by 6/12/23.

5. There are no previously scheduled conferences or arguments outstanding at this time.

6. There are no outstanding motions.

7. There are no pending appeals.

8. The parties have exchanged paper discovery. The depositions of the parties have been completed as well as several non-party depositions of co-workers employed by New Fulton Fish Market. A site inspection of the New Fulton Fish Market has been held.

The Plaintiff has disclosed his medical experts and respectfully requests an opportunity to retain a Vocational Rehabilitation Expert, which Defendant does not oppose.

The Plaintiff has been examined by two of Defendant's three medical experts. Defendant noticed a Vocational Rehabilitation examination for February 23, 2023 and plaintiff failed to appear. As such, Defendant is requesting an extension of time to timely conduct the exam and exchange its defense experts, which Plaintiff does not oppose.

In summary, the parties are jointly and respectfully requesting that the current deadlines be extended as follows: (a) Plaintiff's vocational rehabilitation expert to be exchanged by 4/17/23; (b) Defendant's expert reports to be exchanged by 6/16/23; (c) Expert depositions to be completed by 8/18/23.

9. There have not been any settlement discussions to date.

10. The parties have not discussed employing any alternative dispute resolution mechanisms.

11. It is estimated that the trial of this matter would take 2 weeks.